

AMENDED IN SENATE MAY 11, 2006

AMENDED IN SENATE MAY 2, 2006

SENATE BILL

No. 1696

Introduced by Senators Dunn and Speier

February 24, 2006

An act to add Section 421 to the Penal Code, relating to the public peace.

LEGISLATIVE COUNSEL'S DIGEST

SB 1696, as amended, Dunn. National Guard: public peace.

Existing law provides that state and local law enforcement agencies are to enforce state law.

This bill would provide that, except in cases and under circumstances expressly authorized by the California Constitution or act of the Legislature, *or instances of supporting state or federally authorized counterdrug programs*, any person who willfully uses any part of the Military Department as a posse comitatus or otherwise for civilian law enforcement purposes, including surveillance, ~~shall be fined not more than \$250,000 or imprisoned in the state prison, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding \$50,000, or both.~~

By defining a new crime this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 421 is added to the Penal Code, to read:
2 421. (a) Whoever, except in cases and under circumstances
3 expressly authorized by the California Constitution or act of the
4 Legislature, willfully uses any part of the Military Department,
5 including the National Guard, as a posse comitatus or otherwise
6 for civilian law enforcement purposes, including surveillance,
7 ~~shall be fined not more than two hundred fifty thousand dollars~~
8 ~~(\$250,000) or imprisoned in the state prison, or both.~~ *is guilty of*
9 *a misdemeanor punishable by imprisonment in a county jail for*
10 *not more than one year, or by a fine of not more than fifty*
11 *thousand dollars (\$50,000), or by both imprisonment and that*
12 *fine.*
13 (b) ~~This provision~~ *section* shall not apply to use of Military
14 Department forces, including the National Guard, called upon by
15 the Governor pursuant to Section 143 or 146 of the Military and
16 Veterans Code or pursuant to any provision of the California
17 Constitution or other statute expressly authorizing that activity.
18 *This section shall not apply to participation of Military*
19 *Department forces in support of state or federally authorized*
20 *counterdrug programs.*
21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the
26 penalty for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition of a
28 crime within the meaning of Section 6 of Article XIII B of the
29 California Constitution.

O